

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6374**

**BILL NUMBER:** SB 128

**NOTE PREPARED:** Dec 7, 2010

**BILL AMENDED:**

**SUBJECT:** City and Town Courts.

**FIRST AUTHOR:** Sen. Randolph

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Judges Required to be Attorneys* – It requires the judge of a city or town court to be an attorney in good standing admitted to the practice of law in Indiana. It allows a person who is: (1) a judge of a city or town court serving on June 30, 2011; and (2) not an attorney in good standing admitted to the practice of law in Indiana; to continue to serve only for the remainder of the person's term.
- B. It repeals a superseded provision concerning qualifications for town court judges.
- C. *City and Town Courts in Second Class Cities – Change in Civil Jurisdiction* – It provides that: (1) the city courts and town courts in Lake County; and (2) the city court in a second class city; have original and concurrent civil jurisdiction with the circuit court and superior courts of the county in which the city and town courts are located over: (A) civil actions in which the amount sought or value of the property sought to be recovered is not more than \$6,000; (B) possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed \$6,000; and (C) emergency possessory actions between a landlord and tenant.
- D. *City and Town Courts in Second Class Cities* – It provides that a city court in a second class city is a court of record.

**Effective Date:** June 29, 2011; July 1, 2011.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** *Courts of Record and Change in Jurisdiction*— The state General Fund would receive a smaller proportion of court fees when a court case is filed in a city or town court rather than in a trial court. The court fee that is charged for either type of court is the same when a litigant files a civil case or when a person is found guilty in cases involving misdemeanors, infractions, or ordinance violations. When a case is tried in a trial court, the state General Fund receives 70% of the fee, but it receives 55% of the fee when the case is tried in a city or town court. (See *Explanation of Local Revenues*.)

**Explanation of Local Expenditures:** *Judges Required to be Attorneys* – This bill would likely either increase the salary expenses of city and town courts with nonattorney judges or force the courts to close if no attorneys are available to serve as judges.

LSA examined the legal background and salaries of the 75 city and town court judges who are included in the 2009 *Indiana Judicial Report*. For analysis purposes, LSA divided these judges into three different groups: (1) judges who were not attorneys (referred to as nonattorney judges), (2) judges who were attorneys but were not required by statute to be attorneys, and (3) courts with judges who were required to be attorneys.

Of the 75 city and town courts in 2007, 37 judges were not attorneys, 19 were attorneys in courts where the judge was not required to be an attorney, and 19 judges were in courts where the judge was required by law to be an attorney.

Using the average salary of the nonattorney judges as a baseline, *the average salary of judges who were attorneys and served in city or town courts that were not required to be attorneys was almost 50% higher than the salary of those judges who were nonattorney judges*. Consequently, the expenditures of city and town courts with nonattorney judges would likely either increase if they are required to be attorneys, or the court would have to close operations if the court could not find an attorney to officiate as a judge.

Background of Judges of City and Town Courts – 2009			
Status of Judge	Number of Judges	Average Salary	Percent Higher than Salary NonAttorney Judges
Nonattorney	37	\$18,017	baseline
Attorney but Not Required	19	\$26,867	49%
Required	19	\$46,810	160%
Totals	75	\$27,553	53%

*Courts of Record* – This bill would affect the jurisdictions of nine city courts which are located in second class cities. (Second class cities have populations between 35,000 and 599,999 in population). The following cities would be affected by this bill.

City Court	County	2009 Population
Anderson	Madison	57,189
Carmel	Hamilton	69,547
Elkhart	Elkhart	53,060
Gary	Lake	95,707
Greenwood	Johnson	48,320
Hammond	Lake	76,545
Muncie	Delaware	67,791
Noblesville	Hamilton	42,935
Terre Haute	Vigo	59,900

In CY 2009, these courts reported to the Division of State Court Administration that roughly 95% of the cases filed in their courts were either misdemeanors or miscellaneous criminal, infraction, or ordinance violations.

Current Distribution of Cases in City Courts in Second Class Cities					
Misdemeanors	Miscellaneous	Infractions	Ordinance Violations	Civil	Total
21,419	217	77,822	24,732	7,462	131,652
16%	0%	59%	19%	6%	100%

Courts of record require court reporters to make a record of all court proceedings. In 2009, three city courts in second class cities reported having court reporters on their staff at an average expenditure of \$21,815.

*Change in Civil Jurisdiction* – Increasing the civil jurisdiction of these nine courts might require them to hire additional staff if they receive more case filings. Generally, the estimated time needed to dispose of civil cases is more than for misdemeanors, infractions, and ordinance violations, as shown in the following table.

Weighting Factors in Minutes by Case Category							
Misc. Criminal	Misdemeanor	Infractions and Ord. Violations	Civil Plenary	Civil Collections	Civil Tort	Civil Miscellaneous	Small Claims
18	40	2	121	26	118	87	13

**Explanation of Local Revenues:** *Courts of Record and Change in Jurisdiction* – If more cases are filed in these city and town courts, then the general fund of cities and town courts and the general fund of the county in which the court is located would receive more revenue from court fees.

A \$100 civil costs fee is assessed when a civil case is filed in either a trial court or a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

The state General Fund receives a smaller share of revenue from the civil costs fee when cases are filed in city and town courts rather than in trial courts. [The state receives all of the revenue from the other fees mentioned above.]

The following table compares the distribution of court fee revenue depending on whether a case is filed in a trial court or a city or town court.

	<b>Trial Courts</b>	<b>City or Town Courts</b>
State Share	70%	55%
County Share	27%	20%
City or Town Share	3%	25%

**State Agencies Affected:** Division of State Court Administration.

**Explanation of Local Revenues:**

**State Agencies Affected:** Division of State Court Administration, Indiana Supreme Court.

**Local Agencies Affected:** 38 municipalities with city or town courts in which the judges are not required by law to be attorneys; City courts in Muncie, Elkhart, Noblesville, Carmel, Greenwood, Hammond, Gary, Anderson, and Terre Haute.

**Information Sources:** 2009 *Indiana Judicial Report*; *Indiana Judicial Officers 2009 Directory*; *Indiana Supreme Court Role of Attorneys* ([http://hats2.courts.state.in.us/rollatty/roa1\\_inp.jsp](http://hats2.courts.state.in.us/rollatty/roa1_inp.jsp))

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.